Connectivity in Private International Law

CONNECTIVITY IN PRIVATE INTERNATIONAL LAW

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1. INTRODUCTION

1. This inaugural lecture officially marks the beginning of my activities, almost a year ago, at the Chair of Private International Law and Transnational Law of the Faculty of Law of Maastricht University. In the past months I have had the joy of contributing to the meaningful research and education we offer in this Faculty and have felt very much "at home".

2. I will address you today on "*Connectivity in private international law"*. The title of my lecture has intrigued colleagues and friends over the past weeks. A French colleague referred to the topic as "*aussi mystérieux qu'attrayant*", while a German colleague expressed his fascination for the title, and added that "*the question of 'connectivity' in conflicts law does indeed sound promising*". My conversations with some of the colleagues present today confirmed that, as is often the case in this discipline, there are different ways of understanding the proposed theme.

3. It is now time to unveil my thoughts on this theme: in this lecture I would like to argue that fostering law connectivity is the primary function of private international law, and as such, the rapidly evolving technologies that ensure our digital connectivity may be adequate sources of inspiration for our discipline.

4. You may now be thinking that bridging the gap between technology and the law is far from being an original theme, as consideration of technology-driven changes to the law is a topical issue, here and in many other academic and professional circles. In my defence, I hasten to say that this is a topic with a long history

for me, as it is actually in line with the doctoral research that led to my Ph.D. thesis, written almost twenty years ago under the supervision of Professor Hans van Houtte. Back then, I argued that private international law stands ready to face the rapidly evolving needs of cross-border patent enforcement. I discussed the adaptability of the private international law rules (and, in particular, the rules on international jurisdiction) to the resolution of cross-border patent infringement cases. I also recommended some adaptations to ensure that a set of rules conceived for a broad range of civil and commercial cases, in particular the "Brussels regime", is able to provide adequate solutions for sector-specific litigation, such as cases arising out of international patent disputes.[1] Against the conventional wisdom that favours compartmentalised litigation in each jurisdiction where patent protection has been granted, my thesis argued that European Union (EU) private international law (that is, the "Brussels regime" on international jurisdiction and recognition and enforcement of foreign judgments, reinforced in the meantime by the relevant rules on applicable law – the current Article 8 of the Rome II Regulation, for instance) could facilitate the resolution of cross-border cases in one single jurisdiction. Furthermore, such approach fostered uniform solutions, at least in a European setting. Admittedly, courts have generally chosen a more traditional approach and the concentration of cross-border litigation in patent infringement cases remains rather exceptional. Interestingly, the topic of extraterritorial remedies and cross-border effects of patent infringement judgments remains topical. Technology keeps challenging our legal settings in ways that we could not have anticipated and, as I hope to demonstrate today, I remain of the view that the adaptability of (private international) law stands up to the challenge.

5. My lecture thus revolves around two related, yet distinct, ideas. First, I suggest we can draw inspiration from digital connectivity to revisit or complement the conceptual framework of private international law. Secondly, I hope to persuade

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[1] M. Pertegás Sender, *Cross-Border Enforcement of Patent Rights*, Oxford, OUP, 2002. The topic remains of current relevance: in the European continent, the creation of a European Patent Court remains fraught with post-Brexit uncertainties. The prospects of a European common court for cross-border patent enforcement will not materialize in the foreseeable future. Furthermore, the exclusion of patent litigation (and all other forms of IP litigation) from the scope of application of the *Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters* provides a recent example of the lack of international consensus about cross-border enforcement of patent rights. In this quasi-intractable area of international adjudication, much work remains to be done.

you that, with such adaptations, private international law is aptly equipped to operate in an ever-changing world, with an ever more prevalent role for technology.

2. LESSONS IN CONNECTIVITY

6. To illustrate the first idea, I would like to start by quoting a judgment of the Supreme Court of the United States, where Justice Gorsuch (concurring in the judgment and in part with Justice Kennedy's arguments) expressed the view that:

> *"We [the US Supreme Court] should not meddle in disputes between foreign citizens over international norms."*[2]

In the current political context of the United States, some no doubt see merit in compartmentalised judicial intervention along territorial borders. However, they fail to appreciate that the so-called "international norms" are not abroad, or far away in a remote and inaccessible cloud, making them unfit for enforceability. Instead, as Justice Sotomayor convincingly stated in her dissenting opinion on the same case, those norms penetrate "*through treaties or independently via [states'] domestic legal systems*" and, as such, are an integral part of our legal order. In other words, international norms are norms, irrespective of how close to, or far from, home they are enacted. They are as such to be enforced.

7. Particularly noteworthy is Judge Gorsuch's reference to the dispute as one "*between foreign citizens*". Admittedly, in *Jesner*, none of the parties to the litigation was based in the US but this appears to be a regular fact pattern for cases where the application of the Alien Tort Statute (ATS) is at stake.[3] The ATS specifically requires that the applicant *is* an *alien* (in more contemporary terms one would speak of a non-US party) and does not impose the condition that the defendant should be a local (=US) party. In this particular case non-US petitioners

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[2] *Jesner* v. *Arab Bank PLC*, 138 S. Ct. 1386, 1412 (2018).

[3] The relevant article of the ATS, 28 U.S.C. § 1350, reads as follows: "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States."
Typically, cases filed under this Statute stem from events that took place in very diverse parts of the world and have a very tenuous connection with the US (if at all). It had long been debated whether a defendant based outside of the US could be sued on the basis of the ATS. That point – the weak connection with US territory – was dealt with in *Kiobel* v. *Royal Dutch Petroleum Co.*, 569 U.S. 108, 125 (2013). That judgment left the door open for circuit courts (1) to interpret what exactly "touch and concern" implied (only if the alleged tort occurred in the United States, or should the totality of the circumstances count?), and (2) to address the question of corporate liability under the ATS for a foreign corporate defendant. The latter question emerged again in *Jesner* and it appears that the Supreme Court ruling in that case has definitely closed the options to sue non-US corporations under the ATS.

sought to impose liability on a corporation based in Jordan (the Arab Bank PLC) that allegedly contributed to terrorist attacks in Israel by funnelling money through its New York branch. The latter, according to the applicants, provided the, admittedly weak, connection with the US territory, but the majority ruling of the Supreme Court of the United States did not even find it necessary to test the "touch and concern" threshold set out in *Kiobel.* Instead, it categorically ruled out the applicability of "ATS liability to foreign corporations".[4] I cannot elaborate today whether this decision reaffirms the current cautious approach of US courts to cross-border human rights litigation or whether it has encouraged plaintiffs to try their luck in other jurisdictions.[5]

8. The only point I am trying to make today is that defining the confines of the ATS (or any other law impacting international relations) occurs in a world where, in Anne-Marie Slaughter's words, "*the measure of power is connectedness*".[6] Indeed, we live in a world where there is much more economic, social and political interaction than ever before. How to define what is foreign and what is local in such an interconnected world? The lines between foreign and local, or between national and international norms are hard to draw. Judge Gorsuch's statement therefore strikes me as too categorical, and in so far hardly realistic in today's network of legal norms of different (national, regional or international) provenance.

9. Territorial demarcations remain of course essential for law enactment and enforcement. Also, on this side of the Atlantic, the scope of application of norms keeps our highest courts busy.… The Court of Justice of the European Union (CJEU) rendered a controversial preliminary ruling in the *Google* v. *CNIL* case,[7] where the CJEU was requested to clarify whether the earlier identified "right to be forgotten" has a local, a European or a global scope of application. The origin of this case is an order by the CNIL (the French Data Protection regulator) against

[4] For commentaries, see for instance W.S. Dodge, "Corporate Liability under the US Alien Tort Statute: A Comment on Jesner v Arab Bank", *Business and Human Rights Journal*, 2019, p. 131-137. Specifically, from the angle of climate change judicial action, M. Dellinger, "Post-Jesner Climate Change Lawsuits under the Alien Tort Statute", *Columbia Journal of Environmental Law*, 2019, p. 241-298.

[5] Interestingly, the alleged human rights violations in *Kiobel* have drawn the applicants towards the Dutch court system. Ms Kiobel and the other alleged victims filed a lawsuit against Royal Dutch Shell PLC and three related companies in The Hague, which is both the place of the central administration and the principal place of business of the mother corporation. The Court of First Instance of The Hague rendered a first interlocutory decision on May 1st 2019, ECLI:NL:RBDHA:2019:4233, requesting the production of evidence by the defendants.

[6] A.M. Slaughter, "America's Edge. Power in the Networked Century", *Foreign Affairs* 2009, p. 94.

[7] Request for a preliminary ruling from the *Conseil d'État* (France) lodged on 21 August 2017 before the CJEU. See AG Opinion rendered on 25 January 2019, case C-507/17 (*Google Inc.* v. *CNIL).*

Google imposing a worldwide de-referencing of links to webpages containing certain personal data. Google challenged the extraterritorial application of EU data protection norms by the CNIL and the French *Conseil d'État* requested a preliminary ruling on the matter by the CJEU.

10. In his January 2019 opinion, Advocate General (AG) Szpunar disagreed with a worldwide application of the "right to be forgotten" (or the "right to erasure" as referred to in Article 17 of the General Data Protection Regulation (GDPR), although the case fell under the temporal scope of the GDPR predecessor, Directive 95/46). According to the AG, the fundamental right of access to information, on the one hand, and the right to data protection on the other, must be balanced out. In the current state of EU law, the balance struck by EU data protection rules can only be held to be applicable in the territory of the EU itself and, consequently, an EU-wide demarcation of the "right to be forgotten" can be inferred from the relevant provisions. On 24 September 2019, the CJEU rendered its decision on this matter and confirmed the territorial (EU-bound) confines of the "right to be forgotten". It is anticipated that the interpretation and technical implementation of such a territorial demarcation in a borderless setting of data flows will remain challenging.

11. Questions about the reach of the ATS or the GDPR remain essential for the international relations of our societies. Some may argue that they are beyond the remit of private international law. My answer would be that the public-private law divide fades away in international relations. I join those who have authoritatively demonstrated that such cases belong in an area of confluence of public and private interests[8] and, as such, private international law maintains its relevance to respond to the new challenges encountered in such intersections.

12. What exactly is meant by private international law in this lecture? I take a conventional approach to the discipline and approach it as a trilogy of three main questions: besides the determination of the relevant norms that apply to cases connected with more than one jurisdiction (that is, the question of the applicable law), the rules on international jurisdiction determine which courts and authorities may resolve cross-border disputes, and the rules on recognition and enforcement of judgments determine whether judgments rendered in such disputes can circulate

[8] See, for instance, A. Mills, *The Confluence of Public and Private International Law*, Cambridge, Cambridge University Press, 2010, 395 p.; H. van Loon, "The Global Horizon of Private International Law", Collected Courses of the Hague Academy 2015, Vol. 380, p. 9-108; V. Ruiz Abou-Nigm, K. McCall-Smith and D. French (eds), *Linkages and Boundaries in Private and Public International Law*, Oxford, Hart, 2018, 240 p.; H. Muir Watt *et al.* (eds.), *Global Private International Law: Adjudication without Frontiers*, Cheltenham, Elgar, 2019, 599 p.

and produce legal effects abroad. These three subsets of norms jointly contribute to the connectivity function of the discipline and, as such, can be examined together. As S. Symeonides recalled in his 2016 Hague Academy Course,[9] this is a legal discipline known by different names in different parts of the world but its connectivity potential, given the "existence of multiple, variously calibrated legal systems", appears to be generally acknowledged.[10] For what it is worth, the two most commonly used denominators of our legal discipline ("conflict of laws" and "private international law") may be considered to be interchangeable notions for the purposes of this lecture, even though I have to confess a preference for private international law. The literal notion of conflict of laws[11] conveys a vision of self-contained legal schemes colliding with each other. Instead, our contemporary legal world is characterised by interrelations, linkages and connections (among norms enacted by local, national, regional or international authorities, among norms that claim extraterritorial application or not, among norms that apply to limited communities, etc.) in a more complex and intertwined fashion.

13. I actually suggest we put less emphasis on the respective boundaries of one or another scheme, and focus on how harmonious interactions can be achieved. If we accept that our legal framework contains multi-layered and permeable structures, and that legal transactions increasingly take place in a borderless context, we should focus on the connectivity function of private international law, and speak of linkages rather than boundaries.

14. How then to draw inspiration from the technological side of connectivity? Connectivity is defined as "the state or extent of being connected" and, specifically with regard to computing, is understood as the "capacity for the interconnection of platforms, systems or applications".[12] A first idea might be to rename the disci-

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[9] S. Symeonides, "Private International Law: Idealism, Pragmatism, Eclecticism: General Course on Private International Law", *Collected Courses of the Hague Academy 2016*, Vol. 384, p. 9-385, at p. 85.

[10] G. Rühl, "Conflict of Laws", *in* J. Basedow, G. Rühl, F. Ferrari and P. De Miguel Asensio, *Encyclopedia of Private International Law*, Cheltenham, Elgar, 2017, Vol. 1, p. 1380.

[11] The denomination "Conflict of Laws" stems from the work of Ulrik Huber, the Dutch jurist who coined "*de conflictu legum*" for the posterity. While in the Netherlands and the rest of continental Europe the term is generally used to refer to one of the three subdisciplines (that is, the search for the applicable law), most common law jurisdictions have maintained the preference for this denomination to refer to the broader area of cross-border private legal issues (conflict of laws, *conflits de lois*, *conflictenrecht*, etc.).

[12] *Concise Oxford English Dictionary*, 11th ed, revised, OUP. It does not appear as a legal term in P. Cane and J. Conaghan (eds.), *The New Oxford Companion to Law*, OUP, 2008.

pline. After all, after centuries of debate, it seems unlikely that we reach a consensus between conflict of laws and private international law. Furthermore, we do refer to *connecting* factors (e.g., nationality, domicile, etc) to name the factors that determine the applicable law. Functional equivalents exist for the assertion of the competent courts, e.g., the jurisdictional requirements, and for recognition and enforcement purposes, e.g., the grounds of non-recognition and the jurisdictional filters. Consequently, there is much to be said for a new common denominator that emphasises the function of the discipline. Would a denomination referring to "Connectivity Law" convey such essential goal?

15. It is not only about the name. There is also the important proposition that, as an instrument of connectivity, private international law is an essential piece of the legal architecture of international relations.

16. In her 2019 Maastricht *Dies Natalis* lecture, Minister for Foreign Trade and Development Cooperation, Sigrid Kaag, stressed the importance of connectivity for our communities, and especially for the youth who represent the highest percentage of the populations in the most densely populated areas of our world. Essentially, the ability of being connected gives a reinforced meaning to the vision of a *global citizenship* committed to, as Minister Kaag formulated it, "*the transgression of boundaries in a constructive and inclusive manner"*.

17. It will not surprise you that her words resonate with a private international lawyer like me. If the laws are the vehicles to articulate our societies and our societies are increasingly open and permeable,[13] Connectivity Law, as I suggest we rename Private International Law, surges as an essential feature of today's plural

[13] This is in line with the vision presented by J. Basedow, *The Law of Open Societies. Private Ordering and Public Regulation in the Conflict of Laws*, The Hague Academy of International Law Monographs, Vol. 9, Bril Nijhoff, 2015, 662 p. I also heavily rely on the work of P.F. Kjaer who sees merits in connectivity to understand the role of global legal norms and refers to a category of connectivity norms as "instruments aimed at facilitating the separation, transmission, and incorporation of social components from one context to another". See P.F.. Kjaer, "Constitutionalizing Connectivity: the Constitutional Grid of World Society", *Journal of Law and Society* 2018, p. 114-134, at p. 126 and his previous work on "transnational hybrid law": see, for instance, P.F. Kjaer, "Between Integration and Compatibility: the Reconfiguration of Cognitive and Normative Structures in Transnational Hybrid Law", *in* P. Jurčys, *et al.* (eds.), *Regulatory Hybridization in the Transnational Sphere*, Leiden, M. Nijhoff, 2013, p. 281-300.

legal framework. I will argue this by reference to the methods of private international law (loosely referred to in this lecture as the "connectivity equipment") and to the mission of the discipline.

2.1. CONNECTIVITY EQUIPMENT

18. As I see it, private international law *anno 2019* is equipped to fully deploy its connectivity potential. There are, however, some pitfalls to avoid.

2.1.1. Europeanisation but no Eurocentrism

19. The phenomenal Europeanisation that has characterised the evolution of our discipline in the past decades demonstrates that private international law as a branch of international law has surpassed the classic interstate law" in Klabbers' formulation.[14] In particular, a regional common core of norms has enhanced connectivity in the cross-border civil and commercial relationships throughout the EU. This is a remarkable accomplishment we should cherish and celebrate, in this region and in others where similar regional integration takes place. Such regional unification emerged in large part – and much more than is often realised – by more than a century of unification work of the Hague Conference on Private International Law.

20. At the same time, too much focus on private international law of the EU is not desirable. I think it is fair to recognise that the development of our discipline in the past decades has been characterised by such trend. Admittedly, the result of such focus is a remarkable *acquis* of EU law (mainly in the form of Regulations) which now forms the common core of our discipline in all EU Member States. However, this tendency also reflected an unwelcome Eurocentrism in our discipline. Looking ahead, I would like to suggest a more outward looking approach for EU Civil Justice policy. In an earlier publication, I praised the EU for setting the priority on multilateral action with regard to the recognition and enforcement of non-EU judgments, in line with the objectives of strengthening a "rules-based multilateral order" and widening of "the reach of international norms and institutions" in the international legal order.[15] This is one of the positive actions the EU

[14] J. Klabbers, "Of Round Pegs and Square Holes: International Law and the Private Sector" *in* P. Jurčys, *et al.* (eds.), *o.c.* note nr. 13, p. 29.

[15] See "A Global Strategy for the European Union's Foreign and Security Policy", adopted in 2017, at http://europa.eu/globalstrategy/en.

has taken to position itself as a pivotal actor in international relations in the area of legal cooperation in civil and commercial matters. Even in times of decaying multilateralism and revived nationalisms, the search for the right level of action, as well as a balanced articulation of the different layers of norms that shape the discipline (i.e., the connections and disconnections between local, regional and international norms), remains essential.[16]

21. In plain terms, I recommend international Conventions as connections. I do not think it is either European *or* international norms because law connectivity requires a balanced combination of both. In addition, recourse to a national layer of legal norms as last resort is necessary. In line with the very impressive *oeuvre* of my private international law mentor Alegría Borrás, I suggest we make further progress on a better articulation of connectivity norms from diverse provenance.

2.1.2. Private sector self-regulation and the advancement of transnational law

22. As an instrument of legal connectivity, private international law is principally entrusted to public authorities, either States, Regional Economic Integration Organisations such as the EU or global intergovernmental Organisations such as the Hague Conference on Private International Law. Much as such public entities persevere in their noble mandates, they will still have to face the limitations of the public sector.

23. In turn, private actors such as individuals, companies and other entities are essential players in our societies. They contribute to the further advancement of transnational law understood as "*all law which regulates actions or events that transcend national frontiers*",[17] to quote Philip Jessup. The acknowledgment and study of common legal settings and structures which ensure a better law connectivity should indeed guide this Chair's action in the area of transnational law. As I see it, recognising and channelling the role that private actors claim in norm creation and enforcement for the sake of law connectivity should thus be part of our mission. As Peer Zumbansen argues, it is preferable to engage with "the elaboration of transnational law as a methodology of law and its attending actors, norms

[16] On this topic, the work of my former PIL Professor and mentor, Alegría Borrás, is crucial. See the revealing title of her *Liber amicorum*: J. Forner Delaygua, C. González Beilfuss and R. Viñas Farré (eds.), *Entre Bruselas y La Haya. Estudios sobre la unificación internacional y regional del Derecho internacional privado*, Barcelona, Marcial Pons, 2018, 912 p.
[17] P.C. Jessup, *Transnational Law*, New Haven, Yale University Press, 1956, p. 2.

and processes in a global context"[18] in order to assess the relevance of private actors for Transnational Connectivity Law.

24. In an internal presentation for our M-EPLI Institute, I illustrated this important trend by referring to the private enforcement schemes applicable to social media providers, as a subset of the private dispute settlement means of online platforms. Some may express certain reluctance in accepting such tools as a complement to the traditional tryptic of connectivity rules (jurisdiction rules, applicable law rules and rules on recognition and enforcement of foreign judgments) but, in my opinion, they are functionally equivalent as they pursue the same objective of a better legal connectivity in our global and digitalised community. It seems to me that further work on the functional equivalence and the potential of such transnational connectivity tools may contribute to framing the future of private international law. This Chair should therefore contribute to a better understanding of transnational (self-)regulation in the pursuit of legal connectivity.

2.1.3. Legal competition

25. I would like to refer to another current trend in our discipline: private international law as the facilitator of the competition between legal markets for the resolution of cross-border commercial disputes. As I see it, there is a clear tension between such trend and the described objective of law connectivity. For instance, in Europe, the post-Brexit time raises questions about the attractiveness of London as the continent's leading dispute resolution hub for international commercial disputes. In parallel, and possibly as a consequence, we witness the simultaneous creation or reinforcement of international commercial courts in different locations across continental Europe, and beyond.[19] To be clear, I am not against the diversification of the so-called legal market for international commercial disputes but I do think that this tendency should be critically monitored.

26. It is therefore essential for the discipline to counter excessive manifestations of a so-called 'civil justice competition', whereby private international law is strategically exploited for competitive purposes among jurisdictions. The need for further analysis and research is clear but, as a starting point, it may be worthwhile

[18] P. Zumbansen, "Transnational Law as Socio-Legal Theory and Critique: Prospects for Law and Socierty in a Divided World", *Buffalo Law Review* 2019, Vol. 67, p. 957.
[19] See, for a comprehensive overview of the state of affairs *anno* 2019, X. Kramer and J. Sorabji (eds.), *International Business Courts: A European and Global Perspective*, The Hague, Eleven International Publishing 2019.

exploring whether affirming connectivity as the central tenet of legal norms and structures applicable to private international relations may be helpful in this debate. Why, some may wonder, do I prefer connectivity to the quintessential (EU) concept of mutual trust? As I see it, the notion of mutual trust may prove overly ambitious in the current geopolitical context, even in the solidly established and geographically limited EU context. I hope this Chair will give me the opportunity to come back to this topic in the continuation of the Hague Academy Course I was honoured to deliver in 2016.[20]

2.1.4. Law Connectivity as a pillar of global governance

27. For years I have been intrigued by the views of colleagues who presented our discipline as a pillar for global governance.[21] They put forward solid arguments to submit that, despite their classical *Savignian* architecture, private international law norms or, as I renamed them, the connectivity toolbox, are crafted and implemented taking full account of the substantive needs of a globalised society. This is indeed a noticeable trend at all levels of our multi-layered schemes: national, regional and global allocation schemes progressively depart from neutral and objective settings to more flexible and adjustable solutions based on policy considerations such as the protection of fundamental rights or market regulation. Armed with such a toolbox, private international law is indeed able to claim its role in the regulation of our globalised world.

28. I would add that law connectivity is one of the means by which the discipline can contribute to such aspiration of global governance, understood as the search for coordinated solutions for issues trespassing national boundaries. For instance, our digital society is in need of digital governance and, from a legal perspective, we should continue our progress towards structures that contribute to fair and safe access to digital tools. This Chair is pleased to be associated to the overall work the Law Faculty in Maastricht and other Faculties in The Netherlands conduct on the transformative effect of globalisation in law. In particular, it hopes to demonstrate that law connectivity emerges as an essential feature the law has to accommodate and seek to provide to our globalised and digital society.

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[20] I have not completed the manuscript yet. For a comprehensive analysis of the concept of mutual trust, the Hague Academy Course delivered by Matthias Weller in 2019.

[21] See, among others, the seminal work of H. Muir Watt and D. Fernández Arroyo (and other contributors): H. Muir Watt and D. Fernández Arroyo (eds.), *Private International Law and Global Governance*, Oxford, OUP, 2014 and the numerous contributions of H. van Loon, such as, H. van Loon, "The Global Horizon of Private International Law", *supra* note 8, p. 9-108, in particular Chapter III (p. 73-107).

2.2. A REVISITED VISION

29. The toolbox sketched so far suggests what this discipline, as I see it, should accomplish.

30. I identify the mission of private international law in today's globalised and digital world from a deliberately unnational framework. This is possibly the consequence of my own singular background, or rather backgrounds in plural, with Spanish, Belgian and Dutch connections, as well as almost a decade of work in an intergovernmental organisation. I think there is also my deeply rooted conviction that private international law should contribute to the broader objectives of international relations through the prism of connectivity.

31. Consequently, as I see it, private international law is an integrated and dynamic branch of the legal resources the international community utilises to respond to global challenges (admittedly not all). Still, let us show ambition and keep working on solutions that suit the needs of mobile citizens and are within the reach of legal operators. My personal take is to contribute to the consideration of private international law in a more integrated way, far away from certain qualifiers of the discipline as an esoteric and highly specialised part of the law. I hope that my work reshapes the consideration of private international law from the pragmatic perspective of people's necessities in a globalised and digital society.

3. WORK AGENDA – STATE OF AFFAIRS AND PLANS

32. How does the sketched vision of the discipline(s) reflect on the current and future work plan of this Chair? I hope this Chair's work agenda can meaningfully contribute to the multi-disciplinary Maastricht research theme "Europe in the world" that our University pursues as "*a dynamic academic environment at the intersection of local, regional and global affairs*".[22] A firm believer of our common European identity but no Eurocentrist, I hope to spark off a broad and global interest for the world at large, the international relations and the influence of geopolitical developments in the evolution of the law among our students and researchers.

[22] See https://www.maastrichtuniversity.nl/um-world.

33. I will first describe some features that I believe characterise my teaching (see 3.1 *infra*), which in turn is firmly embedded in the Chair's main lines of research (see 3.2 *infra*).

3.1. KNOWLEDGE TRANSFER WITH A FOCUS ON LAW RELATIVITY

34. Our students will become dynamic actors of a legal market, operating locally and at the same time thinking globally. Raising their awareness about the connection between the legal setting in which their operations take place and the world at large, is one of the daily goals I set for my teaching.

35. I will have to disappoint those who think of *renvoi* or *the public policy exception* as the discipline's bestselling points. As I see it, technical "tricks" are not the essence. Our students are better served by understanding the centrality of the discipline in an interconnected world. I am persuaded that their ability to understanding the functioning of sometimes fragmented and sometimes overlapping legal schemes, will make better lawyers of them.

36. Before turning to my research agenda, I should like to recall the words of a truly inspiring international leader, Kofi Annan, who referred to education in these terms: "Education is a human right with immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development". I am truly privileged for being an educator.

3.2. RESEARCH AGENDA

37. My research agenda is very much built on connectivity as well. Building bridges between the "private" and the "international" side of things forms the DNA of any private international lawyer. As such, I am grateful for the diverse networks in which I operate – M-EPLI in Maastricht and the Law and Development Research Group in Antwerp. Creating linkages between different poles of expertise and proposing innovative approaches to legal problems that call for a transnational solution are trusted working methods for me.

38. A holistic approach to private international law and transnational law – instead of further specialism in subdisciplines such as international family law or international business law – matches well my interests and goals. My research

work principally revolves around horizontal topics, that hopefully reveal new insights for the shaping of the discipline with the earlier mentioned connectivity mission in mind. My current research agenda includes work on (a) the linkages between European and global rules, (b) the position of private persons in international dispute settlement and (c) the transformation of private international law in the digital era.

3.2.1. The linkages between European and global rules

39. This has been one of my constant focusses of interest so far and will no doubt remain so. The problem is not new, but the geopolitical setting keeps evolving and gives rise to new challenges.

40. In 2003, my Antwerp inaugural lecture critically addressed the need for European rules on international child abduction (which were then about to enter into force by means of the Brussels II Regulation). I was one of those who questioned the Regulation's added value given the successful operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*. Despite a natural reluctance for overlapping schemes and the resulting practical complications for legal operators, my conclusion was favourable to the creation of a regional scheme, based upon the global Hague Convention, but adapted to the deeper integration and geographical proximity of intra-EU cases.

41. In November 2018, our Tilburg colleague Ian Sumner pleaded for more coherence and consistency in international family law. I fully agree and I would encourage further joint initiatives to this effect. The academic community can support legislators and judges in their quest for more consistent and coherent multi-layered norms. This requires identifying gaps and overlaps, a proper assessment of the most adequate level to tackle private international law issues, assistance with the design of appropriate connectivity by acknowledging, and bridging, legal diversity while respecting the multi-layered set of fundamental norms. It requires international academic networks and the willingness to think beyond the classical structures of national reports leading to some comparative recommendations. Most importantly, it requires a desire for authentic dialogue and cooperation and the understanding that political priorities may sometimes stand in the way for the technically most suitable solutions.

3.2.2. The position of private persons in international dispute settlement

42. The accountability of the private sector is another theme of growing interest. It is connected with the transformative effect of globalisation in law, and zooms in on the role and position that private actors (individuals like you and me, but also multinational corporations) take in resolving international disputes. There are very diverse manifestations of this broad theme (such as the earlier mentioned example of the extraterritorial application of ATS on foreign corporations, the regulation of class actions in an international setting or the articulation of cross-border private enforcement mechanisms). The central issue remains: how do we accommodate the increasing role private persons play in ensuring law connectivity?

3.2.3. Private international law in the digital era

43. The third area of interest is also very much connected to today's theme. We will continue to pay attention to the necessary adaptations of the discipline in light of technology changes. At the same time, as I see it, we will take inspiration from technology: if digital connectivity is (or progressively becomes) the norm, is it really acceptable for laws to remain disconnected? From UN SDG 16.3, which specifically encourages the international community to "promote the rule of law at the national and international levels and ensure equal access to justice for all", I infer a commitment for connectivity.

4. WITH A LITTLE HELP FROM MY FRIENDS…

44. We have reached the hardest part of my inaugural lecture, and my dear colleague and friend Thalia Kruger knows why…

45. Ladies and Gentlemen, I cannot help it – words of gratitude inevitably bring tears to my eyes – they do, even when the speaker is a total stranger, and they undoubtedly will do today as I have the honour of being the main speaker. You have been warned …

46. Firstly, I wish to thank the Maastricht University Board, as well as the Dean of the Law School, for my appointment to this Chair in Private International Law and Transnational Law.

47. Your personal and inspiring touch, *Rectora Magnifica*, when you personally welcomed me and other newly appointed professors in Randwyck, certainly made an impression since day one.

48. I consider it a great honour to follow in the footsteps of a unique individual and one of the founding pillars of our Faculty, René de Groot, who, together with Hildegard Schneider, has guided each and every day of my Maastricht adventure so far. If only I can reach a fraction of their infinite passion and commitment for law education and for this institution, I will surely do well!

49. I am also very grateful to my HOD, Gijs van Dyck, for checking on me when I needed it and for his no-nonsensical approach and his humour. I also thank all my wonderful tutors for teaching me the "Maastricht way" of a myriad of substantive and practical issues. You have been indispensable to me this past year and I hope I can in turn offer you guidance and support in the future.

50. Dear students, you are the driving force behind my motivation and inspiration. Your inquiring minds have been very refreshing after quite some years in diplomatic circles. Above all, for someone whose children are your age, feeling your interest and your connectedness is indeed very special.

51. I wish to thank all those who have assisted and supported me in my academic and professional career so far. My academic career began in Leuven under the supervision of Professor Hans Van Houtte. I think I owe much of my professional resilience and perseverance to you. Also, to my former colleagues at the "Valk" (Viviane, Ilse, Patrick, Thalia, Karen) – I owe a lot to each and every one of you! Not forgetting our "inner circle" of inspiration and strength – the VVVs (it is not a political party – I can only disclose that one of the 'V's stands for "*vrouw*" and, if you really want to know, I invite you to contact Koen Geens, the current Belgian Minister of Justice!).

52. Seventeen years ago, my colleagues at the University of Antwerp welcomed me in their midst. In Antwerp I learnt how multifaceted and intense the life of a law professor is. Through you, past Dean and honorary Vice-Rector, Johan Meeusen, and you, current Dean and "academic brother", Frederik Swennen, I wish to convey my sincere thanks to the Faculty and the wonderful colleagues for your invaluable flexibility and your encouragements prior, during and after my affiliation with the Hague Conference on Private International Law.

53. Speaking of my time in The Hague now, I thank Hans van Loon, former HCCH Secretary General for welcoming me into a unique organisation and providing me with the possibilities to grow, personally and professionally, in the

fascinating world of international cooperation (even the diplomatic side of things…). To my former PB colleagues, I should say that I miss our daily crusades and that my enthusiasm for the HCCH mandate remains intact. I believe that together we (the practitioners and the academia) can serve better our respective institutions and stakeholders in the noble goal of stronger and deeper international cooperation in civil and commercial matters.

54. I turn to the ones who made me the person I am. And I switch to Spanish, hopefully with your understanding. *Mamá, papá, gracias por todo lo que habéis hecho por mí y por vuestra infinita comprensión con mis elecciones en la vida. En la Universidad, como si fuera ayer, me seguiré esforzando con la profesionalidad que siempre te ha caracterizado, papá, y con tu perseverancia, mamá.* En ook een bijzonder woord van dank voor mijn schoonouders, uiteraard om zo'n fantastische zoon op de wereld te hebben gezet en voor de onvoorwaardelijke steun in mijn beweeglijke carrière.

55. Y, finalmente, a mi favorito "club de los cinco", los Spaanse Belgen, mil gracias por ser mi apoyo incondicional y por aceptar con amor mi nuevo cargo aquí, lejos de vuestro entorno cotidiano.

56. Among us there is much more than connectivity, there simply is love.

And with that, Prorector, I think I've come to the end of my lecture.

Dixi